



Date of Council Meeting: November 26, 2012

**TOWN OF LEESBURG  
TOWN COUNCIL WORK SESSION**

**Subject:** TLOA-2012-0001 Crescent Design District Zoning Ordinance Amendment  
TLOA-2012-0002 Design and Construction Standards Manual Amendment  
TLOA-2012-0003 Subdivision and Land Development Regulations Amendment  
TLZM-2012-0004 Official Zoning Map Amendment  
TLTA-2012-0001 Town Plan Amendment

**Staff Contact:** Chris Murphy, Zoning Administrator  
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Susan Berry Hill, Director

**Recommendation:** Staff recommends that Town Council consider the information contained in this memo to provide direction to staff at the work session on November 26, 2012 regarding potential revisions to the Crescent Design District.

**Issue:** The five applications listed above are proposed to maintain consistency among Town planning documents if the proposed Crescent Design District is adopted. The specific issue for each document is set forth below.

1. Should **Zoning Ordinance** Section 7.10 Crescent Form-Based District (CFBD) be amended to establish the new “Crescent Design District” to allow for development and redevelopment of land consistent with principles of traditional urban design in accordance with the guidelines of the Crescent District chapter of the Town Plan?
2. Should the **Official Zoning Map** be amended to rezone 215 parcels from the B-1, B-2, B-3, R-HD, R-6 and PRN Districts to the new Crescent Design District?
3. Should the **Design and Construction Standards Manual** (DCSM) be amended to achieve consistency with the proposed Crescent Design District?
4. Should the **Subdivision and Land Development Regulations** (SLDR) be amended to achieve consistency with the proposed Crescent Design District?
5. Should the **Town Plan** be amended to revise and expand the goals and objectives of the original Crescent District Master Plan including expansion of the Crescent District to a larger area?

**Background:** On November 13, 2012 the Town Council held a public hearing on the draft Crescent Design District (CD District). Four members of the public commented on the amendments and a fifth had a statement read into the record. Comments are summarized as follows:

- Once citizen supported the various amendments generally as proposed.
- Two members of the original Steering Committee supported the amendments but stated that all development should be allowed by-right without a rezoning process. They stated that to make

redevelopment of the area competitive residential and commercial uses should be by-right due to cost of rezonings, unpredictability related to public input for a public review process and the fact that most of this area is made up of brown fields. Other new urbanist communities are being built in green fields (such as One Loudoun Center, Kincora and Moorefield Station) and by making redevelopment here by-right will allow this area to compete with these green field-type developments. In addition, they said that the type of residential development that will occur here will not generate many school children because it is geared towards young adults and retirees like the Village at Leesburg, and the total area is still small relative to the entire Town and Loudoun County. They supported allowing by right building heights for the same reasons.

- A business owner expressed concern about how projects currently being designed for submission under current rules will be grandfathered. In addition, he questioned inclusion of his property in the district due to its remoteness from major roads and asked if it could be removed from the district.
- A citizen questioned the impact of four-story buildings along South King Street and whether the additional height will increase danger to pedestrians in the area due to increased traffic.

**Council Discussion:** Council members noted the following questions, comments or concerns with the CD District:

- **By-Right vs. Rezoning:** Staff should provide more information regarding the rationale for by-right vs. rezoning along the major roads in the CD District including Catoctin Circle and E. Market Street where height will have less of an impact because of street width. A by-right limit of three (3) stories will also limit the amount of residential opportunity. How much by right vs. rezoning is appropriate because the Town wants this to be an incentive to rezone?
- **District Size:** Staff should explain the transitions to residential neighborhoods. Why does the CD District go so far down Ft. Evans road as opposed to stopping closer to E. Market Street?
- **Transitions to Residential Areas:** Staff should explain the increases in height next to existing residential uses.
- **Economic Impact:** Regarding the incentive for economic development, can staff provide numbers regarding the economic impact of the proposed CD District on the Town including the cost of additional infrastructure?
- **Streamlining:** Staff should demonstrate why no further streamlining is necessary or proposed.
- **Fiscal impact on Utilities Plant Capacity:** Can existing facilities handle this level of density here given other development proposals that are being considered that we had not provided for such as such as Crosstrail or the residential proposal for Hunter-Dowty? What is the impact on utility capacity?
- **Grandfathering:** Are there applications owners are working on for submission prior to the potential adoption of the Crescent Design District? When could the ordinance take effect to accommodate these applicants?

Each of the items mentioned above is discussed below.

1. **By-Right vs. Rezoning.** The proposed CD District divides development into by-right and rezoning scenarios, with by-right densities and heights calculated to meet Town Plan minimum objectives and densities while not taking any height-related rights away from existing properties. The rezoning scenario is offered as the incentive to go for taller heights (up to a full five stories) and higher densities while affording proffer opportunities to the Town. As part of this strategy, Catoctin Circle and E. Market Street were treated no differently with regard to by-right height because it was thought that the possibility of five stories on these key routes would attract

investors interested in rezoning to build at more than three stories. The issue under consideration is does this scenario provide enough incentive to generate interest in actually going through the rezoning process? Those who have followed or participated in the CD District review process over time have expressed concern that the prospect of a rezoning will stifle interest in the district and that redevelopment will not occur. They contend that a proper inducement requires more by-right height and residential density to stimulate action from the private sector, so some taller by right heights should be permitted within the district. Below are two possible scenarios that provide more incentive for investment to begin redevelopment of the area.

Catoctin Circle and E. Market Street are the largest roads that currently bisect the CD District. Both are characterized by wide rights-of-way and numerous entries from small lots directly onto the road. Many commentators believe taller buildings are more appropriate here given the scale of these two roads, and the form-based code has envisioned more substantial buildings along these routes. Therefore, to incentivize the attainment of that goal, Staff proposes two alternatives for Council consideration:

**A. Alternative 1: Limited Five Stories By-Right.** This alternative would allow five stories by-right along portions of Catoctin Circle and E. Market Street subject to these specific limitations:

- Five (5) stories should be permitted by right 300 feet from the right-of-way line on either side of Catoctin Circle from its intersection with S. King Street north to its intersection with E. Market Street.
- Five (5) stories should be permitted by right 300 feet from the right-of-way line on either side of E. Market Street from its intersection with Catoctin Circle east to its intersection with the Route 7/15 Bypass.
- In the case of any building built in these locations, the ground floor *must* be occupied by nonresidential uses.

The effect of this modification would be to incentivize redevelopment along these major corridors while retaining the rezoning requirement for all other areas. For example, a building within the 300 feet could be five stories and could be comprised of ground floor retail with four stories of residential use above in the 2<sup>nd</sup> through 5<sup>th</sup> stories with no rezoning required. However, for areas outside the 300 feet, a rezoning would be required to increase the building height and residential density.

**B. Alternative 2: All By-Right with Transitions.** This alternative would allow heights by right in accordance with revisions to the Building Height Map to permit 3, 4 and 5 stories. It would require a mandatory transition to existing residential uses adjacent to but outside of the CD District as follows:

- For a distance of 70 feet back from the property line to an existing residential zoning district that is adjacent to but outside of the Crescent Design District no building shall exceed three (3) stories or 46 feet in height. Any yard setback provision regarding the location of the building shall also apply.
- This provision would apply to lots that are separated from residential districts outside of the CD District by a public road (such as along S. King Street).

- Residential density restrictions would be deleted and density would be a function of height and location.
- In the case of any building built along Catoctin Circle and E. Market Street, the ground floor *must* be occupied by nonresidential uses.
- For buildings facing on internal roads there would be a mandatory step back for the upper story directly adjacent to the road.

The effect of this modification would be to incentivize redevelopment by allowing all heights shown on the Building Height Map to be by-right, so in areas where four stories are proposed those four stories would be by-right so long as the step-back provision described above was applied. Other use restrictions would apply. This means the entire district would be by-right but restrictions in the Use Table are still in effect.

2. **District Size.** The proposed district size is substantially larger than the original Crescent Form-Based District and somewhat larger than the district recommended for study by Council in July 2012. The map below shows a comparison of the district as envisioned by the Planning Commission (adopted by Council), the Crescent District Master Plan (green line), the Steering Committee (gray line) and the B-2 District (blue line).

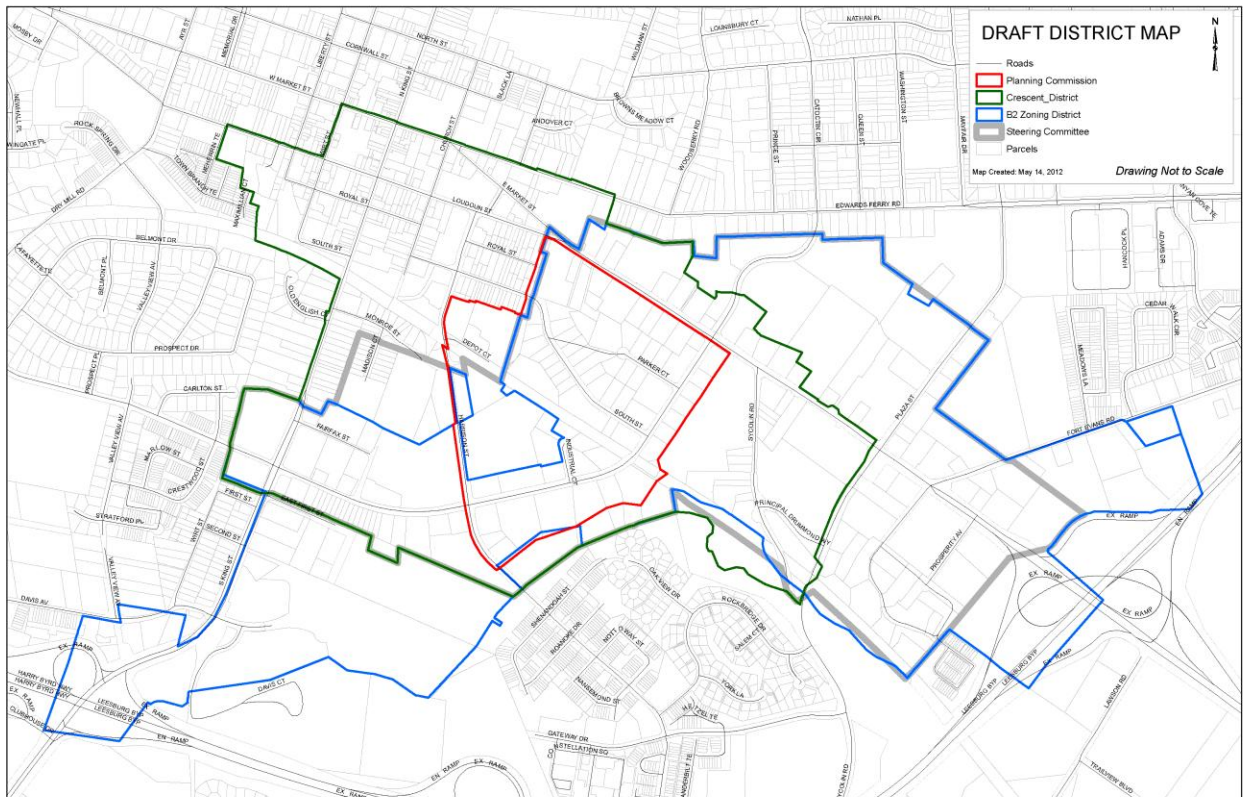


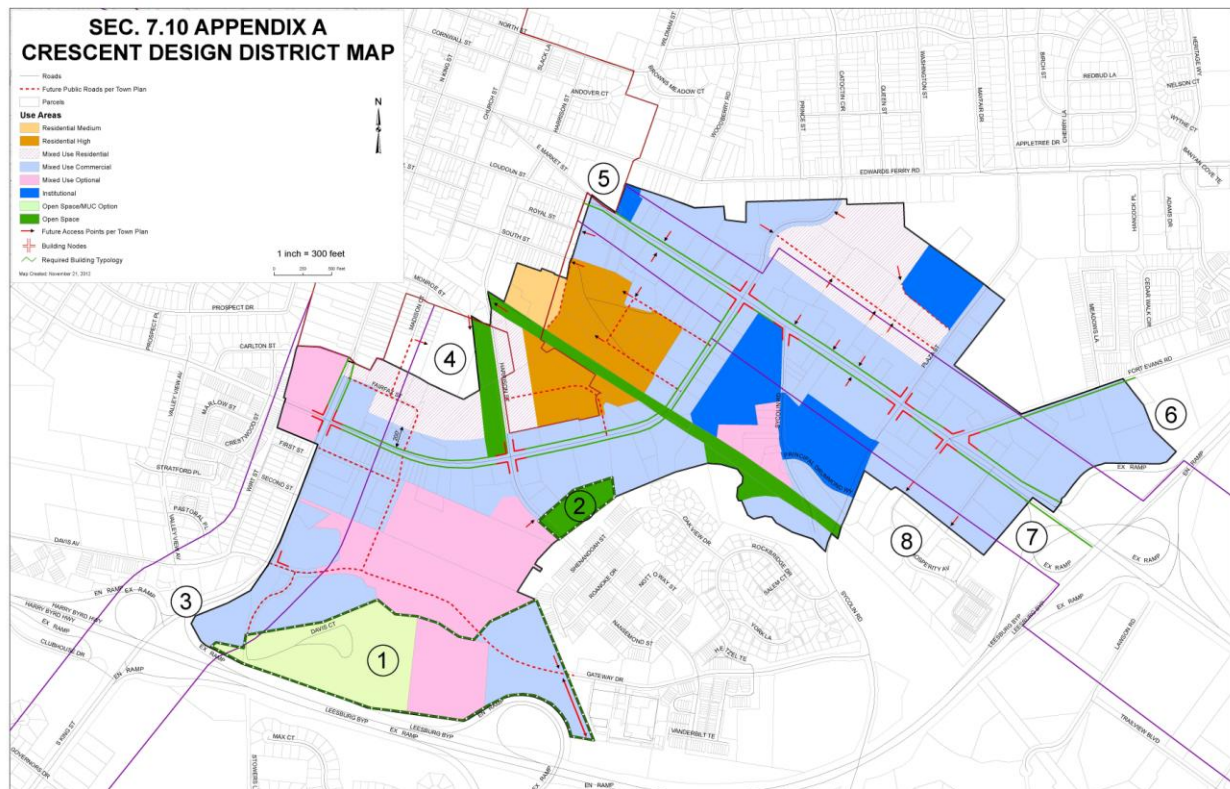
Figure 1 - Map showing Potential Areas

The proposed CD District is larger still in that some undeveloped (green field) land was added. These include the following additions (see Figure 2 below).

1. Land at the southwest corner of the district, including the Izaak Walton Park, to extend the district down to the Route 7/15 Bypass.
2. The Town's Brandon Park was added as a logical boundary north of the Shenandoah Square townhomes.

However, based on the area proposed in July, significant subtractions have also been made to the area as indicated on Figure 2 below. The deletions are as follows:

3. Land West of S. King Street at Bypass. This B-2 area was deleted to keep the district generally east of S. King Street and because added height at the flyover served no compelling purpose.
4. Land North of Virginia Village. This R-22 zoned land was deleted because existing zoning provides high density residential zoning than was proposed by the CD District.
5. Land of George C. Marshall Foundation. This B-1 and H-1 zoned land was deemed to be adequately zoned to fulfill the Town Plan vision without inclusion in the CD District.
6. Land North of Cedar Place on Ft. Evans Road. This land was deleted because it was recently developed under a proffered rezoning.
7. Land encompassing the Southwest Quadrant of the Bypass. This area was dropped because it is public right-of-way though it is zoned B-2 District.
8. Land encompassing Fox Chapel. This area is already developed as high density residential and so was deleted from the proposed CD District.



**Figure 2 - Proposed District indicating Additions and Deletions**

Council asked why certain parcels were included. The reasons are set forth below.

1. What is the rationale for the areas included on Ft. Evans Road?

**Answer:** The commercial area south of E. Market Street on Ft. Evans Road was included because this area is mostly low-FAR establishments designed for shopping by car, the type of area that the CD District seeks to redevelop over time in a more urban form. A portion of the commercial area on Ft. Evans Road north of E. Market Street is included for the same reason, excluding developed residential areas and proffered rezonings, so it extends up to the Chevrolet car dealership on the west side and to the Hampton Inn on the east side. This also encompasses an area of undeveloped B-2 land between two hotels that could benefit from the additional height and density afforded by the CD District.

2. What is the rationale for the areas included on Prosperity Avenue?

**Answer:** South of E. Market Street this area is also composed of low FAR shopping and two hotels that are designed to serve automotive traffic. Prosperity Center is a single parcel that fronts on E. Market Street and the west side of Prosperity Avenue. Fronting on the east side of Prosperity Avenue are two hotels. These three commercial entities take up the entire frontage on Prosperity Avenue until it reaches the Fox Chapel residential development. Given the proximity to E. Market Street and the high density residential development to the south, Staff believes this area is appropriate to include in the CD District to achieve a more mixed use, urban style and pedestrian friendly streetscape along Prosperity Avenue in the future to serve the adjacent residents. Staff believes that if the district is stopped closer to E. Market Street, this will not occur under existing zoning.

3. **Transitions to Residential Areas.** During consideration of the CD District staff has been cognizant about the need for appropriate transitions from existing residential areas to the new district. For that reason, certain areas adjacent to existing residential uses are limited to no more than three stories (see Figure 3 Building Heights Map) under any circumstances. In particular, the areas adjacent to Vinegar Hill along South Street and behind the single family detached homes along Edwards Ferry Road and the Giant Shopping Center were limited to three stories to respect the nature of the small dwellings located adjacent to but outside of the CD District. Elsewhere all heights were limited to three stories by-right and four or five stories are possible but only through a rezoning approved by Council. In those cases Council could determine whether more than three stories are appropriate and necessary height transitions could be imposed to mitigate impacts on adjacent residential properties. In this way, the transition from existing residential areas to taller buildings inside the CD District could be controlled.
4. **Economic Impact.** Council has asked if staff can provide numbers regarding the economic impact of the proposed CD District on the Town, including the cost of additional infrastructure. Without further detailed economic study staff cannot place a cost to the Town for potential infrastructure because the variables are too great – even an opportunity for high density does not mean that it will be built to the maximum density, and the type of businesses that will come can only be generally predicted. Businesses such as restaurants and hotels provide major revenue for the Town whereas general retail provides it mainly for the County and State. One can anticipate the need to provide certain improvements such as transportation consisting of signal lights and turn lanes, perhaps centralized stormwater management facilities and water and sewer line upgrades, the need for additional parks and recreation amenities, and school facilities with



population growth. The CD District was proposed to allow the rezoning process to garner proffers to address these potential needs; a by-right scenario does not afford this possibility. Proponents of a by-right scenario believe that most infrastructure improvements will be provided by developers as the area is redeveloped, and that over time the increased revenue from the higher property values and increased economic activity in the district will more than off-set any public infrastructure improvements necessitated by that redevelopment. They contend that the long term impact must be considered, and that remaking this area into a traditional urban form like downtown Leesburg will have a similar positive affect on revenues by attracting businesses that want to locate in a unique, attractive environment. One concern is the impact of residential uses, particularly on schools but proponents state that urban-style apartments and condos do not produce large amounts of school-aged children. They cite the Village at Leesburg as an example, an urban project with 335 apartments that generated approximately 20 students. Proponents also believe that dense residential use is necessary to kick start the redevelopment process to move from a commercially-zoned area of single-story, low FAR automobile-related uses to an urban environment with a mix of uses friendly to pedestrians.

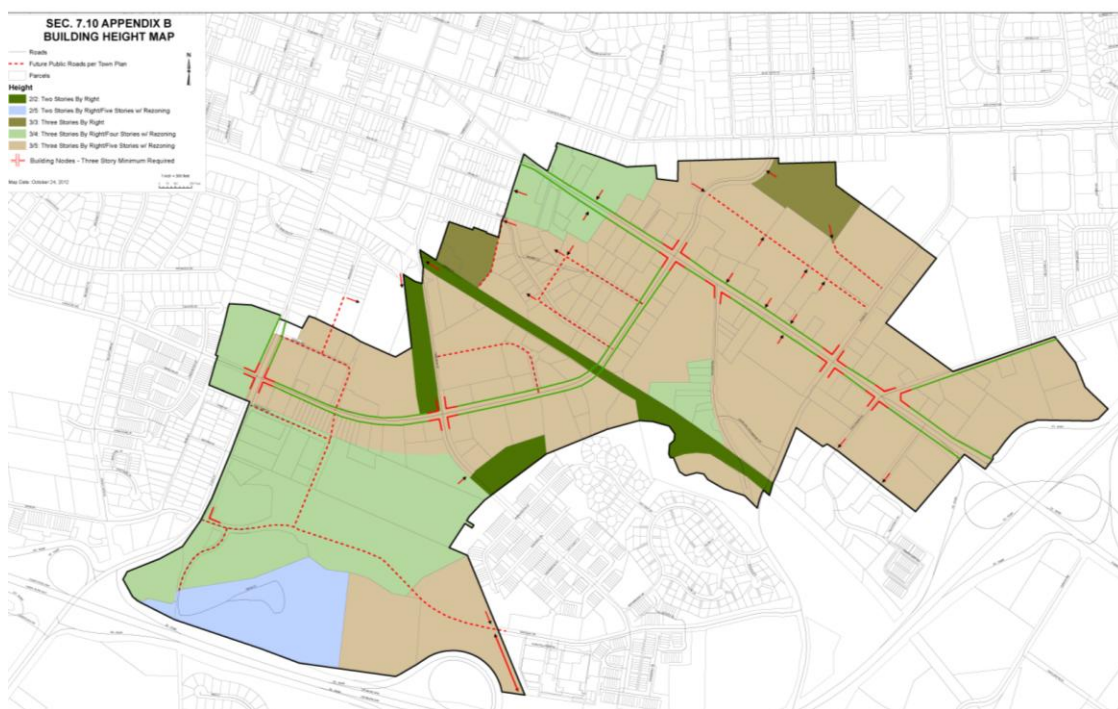


Figure 3 – Building Heights Map

5. **Fiscal impact on Utilities Plant Capacity.** Because of the cost of expanding water and wastewater treatment facilities, redevelopment that overtaxes existing facilities could lead to the need to expand those facilities. A challenge to updating the Water and Sewer Master Plan is that the density/uses of the CD District are not set, so it is difficult to precisely predict future water and sewer needs. At present 600,000 gallons of daily water use has been allocated for the general area included in the CD District, equivalent to 1,700 single-family detached houses each using 350 gallons a day. With regard to water and sewer treatment plant capacity, ultimate build out of the CD District may not require any increases in plant size but it ultimately depends on final density. Water and

sewer flows have actually *declined* in recent years despite an increase in population. This is due to many factors, but primarily due to low flow plumbing fixture technology coming on-line and consumer consciousness. Our current flow projections account for the CD District allocation of 600,000 gallons, Tuscarora Crossing of 250,000 gallons and Crosstrail at 200,000 gallons per day. At these levels and accounting for all other projects in the pipeline we will have approximately 500,000 gallons of capacity remaining at the waste water plant thereby negating the need for an expansion. Again, these are predictions and cannot be guaranteed.

Note that if off-site water and sewer lines have to be up-sized to accommodate the growth, this cost will initially be borne by the Town. This would ultimately be paid for through availability and pro-rata fees charged to developers for connecting to Town water and sewer facilities. Note that availability fees are Town wide, and not assessed differently depending on location in Town. That means the cost of any off-site up-sized lines would be paid for in part by developers outside of the CD District. It should be noted that a full reimbursement to the Town for upgraded water and sewer utilities is not guaranteed.

6. **Streamlining Development Review process for CD District.** One of the directives given to staff through the resolutions approved by Council in June and July was to streamline the review process for applications in the Crescent Design District. At the public hearing, staff noted that process improvements to application review procedures over the past four years have afforded time savings to the applicant. Staff explained that timelines allowed for staff review and comment are strictly adhered to thereby providing the applicant with very predictable timelines for staff review. Council member Dunn questioned staff regarding whether any aspects of the review process could be further streamlined. Staff responded that no changes to the process had been identified that could further truncate the review time. Upon further reflection, staff could offer one change. For legislative applications, the checklist review time could be reduced from the current allowance of ten days to one day. Under this change, the applicant would make an appointment with staff to go through the checklist together. Any deficiencies would be identified on the spot and the applicant. The checklist for administrative review of site plan applications is shorter and thus the intake review time is shorter. Consequently, this idea for streamlining the review process is not applicable to site plan review.
7. **Grandfathering.** The term “grandfathering” refers to how applications that are already in the Town review process but which have not been approved yet are treated when zoning regulations are amended. Typically, the Town “grandfathers” applications that have been officially accepted for review under the regulations in effect at the time the application was accepted. That means new zoning regulations have no impact on such applications. However, if an application has not been officially accepted for review, which starts the Town’s time clock for review, the application is not considered grandfathered and the new regulations apply.

The CD District is a major change from existing zoning and in at least one case Staff is aware of a potential applicant who has been working on a site plan application for submission and acceptance before the CD District takes effect. In the draft adoption ordinances supplied with the November 13<sup>th</sup> Council packet Staff was recommending an implementation date of January 1, 2013. The potential applicant in this case has expressed concern that January 1<sup>st</sup> may be too soon though they have paid consultants to work on their site plan. At the public hearing it was suggested that February 1, 2013 would better help this business owner and others seeking to apply before the CD District takes effect. Staff has no objection to a February 1, 2013 implementation date.